

# Exhibit 1

Ronald Wilcox • Attorney at Law

REPRESENTING INDIVIDUALS IN ALL ASPECTS OF FINANCIAL REORGANIZATION AND BANKRUPTCY

TEL: (408) 296-0400 • FAX: (408) 296-0486

**VIA FAX – 1 PAGE ONLY**

January 16, 2008

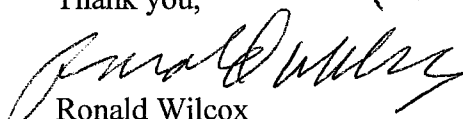
Tomio Narita  
Simmonds and Narita  
44 Montgomery Street, Suite 3010  
San Francisco, California 94104  
(415) 283-1000 - Phone  
(415) 352-2625 - Fax

Re: Harrison v. Barnes, et al. (N.D. Cal. – San Francisco Division)

Dear Mr. Narita,

As you know, Defendants are now in default. If no answer is filed by today Plaintiff will take a default.

Thank you,



Ronald Wilcox

MEMORY TRANSMISSION REPORT

TIME : 01-16-'08 07:35  
FAX NO.1 : 1-408-296-0486  
NAME : Ronald Wilcox, Esq.

FILE NO. : 862  
DATE : 01.16 07:33  
TO : 814153522625  
DOCUMENT PAGES : 1  
START TIME : 01.16 07:34  
END TIME : 01.16 07:35  
PAGES SENT : 1  
STATUS : OK

\*\*\* SUCCESSFUL TX NOTICE \*\*\*

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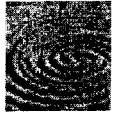
Thank you,

  
Ronald Wilcox

# Exhibit 2

**From:** Ronald Wilcox <ronaldwilcox@mac.com>  
**Subject:** McIntyre v. Resurgence; Harrison v. Barnes; Nicander v. Hecker  
**Date:** January 25, 2008 9:28:17 AM PST  
**To:** Tomio Narita <tnarita@snllp.com>

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Dear Tomio,

I am writing to you about three (3) cases where you have failed to take appropriate action.

**I ask that you call me today at 11 a.m. to discuss these matters, or inform me what time you are available today and I will call you.**

**1. McIntyre v. Resurgence**

On December 11, 2007, we met and conferred by telephone for more than 30 minutes. Then on December 18, 2007, I served your client with written discovery, as we discussed during the telephone conversation. Defendants have failed to properly respond to the discovery. Therefore, the Requests to Admit are deemed admitted. Furthermore, I sent you a draft CMC statement (within 14-days of the date we met and conferred, as required by the F.R.C.P.) and a Stipulation to Mediate. You failed to respond to those e-mails, despite being required to do so by the rules. On January 16, 2008, I again sent you a Stipulation to Mediate. You failed to respond again. Defendant has a duty to cooperate with Plaintiff in drafting a Joint CMC Statement pursuant to the F.R.C.P. and Orders of the Court.

I reviewed my files in other cases handled by your office and see a disturbing pattern of delay (see below e-mail):

**From:** Ronald Wilcox, Esq. [mailto:[ronaldwilcox@yahoo.com](mailto:ronaldwilcox@yahoo.com)]  
**Sent:** Wednesday, December 14, 2005 8:05 AM  
**To:** Tomio Narita  
**Subject:** RE: Amber v. Krauss/CSC discovery requests

Dear Tomio,

The record reflects that the parties have met and conferred on several matters, including discovery. Whether or not the parties have completed their exchange of initial disclosures yet does not change that fact. We look forward to timely responses to the discovery requests pursuant to the Federal Rules of Civil Procedure.

Of course, if you would ever like to discuss something with me you are welcome to call.

Indeed, I will be here all day.

Thank you,  
RONALD WILCOX  
Attorney at Law  
2160 The Alameda, First Floor, Suite F  
San Jose, CA 95126  
Tel: 408-296-0400  
Fax: 408-296-0486

Other examples of your unwillingness to meet and confer with me and other counsel are plentiful. I simply request you fulfill your obligations under the F.R.C.P. so we can move matters along in the interest of judicial economy and efficiency.

Finally, you have also failed to provide available dates for depositions. Therefore, I will be noticing depositions forthwith.

## **2. Harrison v. Barnes**

I have conferred with Robert Barnes, in-house counsel for Defendant Curtis O. Barnes, P.C. On Monday, January 7, 2008 I sent Robert Barnes an e-mail requesting Defendants answer the complaints no later than Friday, January 11, 2008. At about 5 p.m. on Friday, January 11, 2008, Robert Barnes sent an e-mail claiming he hired Tomio Narita to represent Defendants in this matter. However, you failed to contact me, and failed to timely file an Answer to the Complaint. Thereafter, on Wednesday, January 16, 2008, I faxed you a letter requesting the Defendants file answers to the complaints, or Plaintiff would be forced to take their defaults. Defendants failed to file an Answer to the Complaint and failed to seek an extension. As such, please be advised I took the defaults of the defendants on January 23, 2008.

Ironically, in *Amber v. Krauss* (above) you and I stipulated to, and the Court granted, an Order allowing an Answer to be filed by 9/12/05. However, you

ignored that Court order and failed to file an Answer, thereby forcing Plaintiff to again request your compliance with the rules after your client was in default for

more than two weeks.

## **3. Nicander v. Hecker**

Laurence Hecker has been stalling this matter since around December 20, 2007. At first he feigned that he needed an extension to discuss settlement. Then, after Plaintiff granted an extension he refused to discuss settlement or respond to my letters regarding such. Then he indicated he was hiring/hired a San Francisco attorney, but would not tell me who (as with *Harrison v. Barnes* above it appears you delayed in calling me). On January 23, 2008 Plaintiff filed a Request for Default. You have failed to file an Answer, failed to call me, and you are apparently attempting to cause the same unnecessary delays you caused above.

**I ask that you call me today at 11 a.m. to discuss these matters, or inform me what time you are available today and I will call you.**

Thank you,

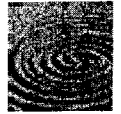
Ronald Wilcox  
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[ronaldwilcox@mac.com](mailto:ronaldwilcox@mac.com)

# Exhibit 3



**From:** Ronald Wilcox <ronaldwilcox@mac.com>  
**Subject:** Fwd: McIntyre v. Resurgence; Harrison v. Barnes; Nicander v. Hecker  
**Date:** January 29, 2008 10:53:26 AM PST  
**To:** Tomio Narita <tnarita@snllp.com>

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VIA FAX AND E-MAIL

Dear Tomio,

Attached please find an e-mail I sent you Friday, January 25, 2008 (also sent to you by fax). I am still waiting for you to tell me what time you are available to talk about these three (3) cases. I am happy to call you tomorrow at 8 a.m. Otherwise, please tell me what time you are available and I will call you.

Thank you,

Ronald Wilcox  
Attorney at Law  
2160 The Alameda, First Floor  
San Jose, CA 95126  
Tel: (408) 296-0400  
Fax: (408) 296-0486  
[ronaldwilcox@mac.com](mailto:ronaldwilcox@mac.com)

Begin forwarded message:

**From:** Ronald Wilcox <ronaldwilcox@mac.com>  
**Date:** January 25, 2008 12:28:17 PM EST  
**To:** Tomio Narita <tnarita@snllp.com>  
**Subject:** McIntyre v. Resurgence; Harrison v. Barnes; Nicander v. Hecker

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**1. McIntyre v. Resurgence**

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RONALD WILCOX  
Attorney at Law  
2160 The Alameda, First Floor, Suite F  
San Jose, CA 95126  
Tel: 408-296-0400  
Fax: 408-296-0486

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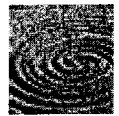
**I ask that you call me today at 11 a.m. to discuss these matters, or inform me what time you are available today and I will call you.**

Thank you,

Ronald Wilcox  
Attorney at Law  
2160 The Alameda, First Floor  
San Jose, CA 95126  
Tel: (408) 296-0400  
Fax: (408) 296-0486  
[ronaldwilcox@mac.com](mailto:ronaldwilcox@mac.com)

# Exhibit 4

**From:** Ronald Wilcox <ronaldwilcox@mac.com>  
**Subject: Re: Harrison v. Barnes (Defaults)**  
**Date:** February 5, 2008 4:04:09 AM PST  
**To:** Tomio Narita <tnarita@snllp.com>



Dear Tomio,

Actually, I was waiting to hear back from you. When we spoke about this case on Friday, February 1, 2008, I I asked you about deposition dates for Defendants. You indicated they were not parties to the action (incidentally, if they are not parties to the action then I'm not sure they can sign a Joint CMC statement. Lets discuss the rules). As I mentioned, since they are not parties then Plaintiff will subpoena their depositions. Please obtain their available dates and call me this morning (408-314-6210). Please don't make this like other cases where you refuse to provide available dates, causing Plaintiff to notice a deposition only to then have Defendants claim they have a calender conflict.

Additionally, I had been waiting for you to call me to explain what excusable neglect warranted setting aside the defaults. On Friday, February 1, 2008, you did not mention any. Also, as I mentioned, it seems like a waste of judicial resources and economy to set aside a default when this case comes down to damages. Lets use our time, and the court's time, wisely. To that end I think it would be wise to consent to the Magistrate Judge. Please let me know by today whether you will consent to the Magistrate Judge, otherwise I will request reassignment.

Thanks,

Ronald Wilcox  
Attorney at Law  
2160 The Alameda, First Floor  
San Jose, CA 95126  
Tel: (408) 296-0400  
Fax: (408) 296-0486  
[ronaldwilcox@mac.com](mailto:ronaldwilcox@mac.com)

On Feb 4, 2008, at 7:42 PM, Tomio Narita wrote:

Ron:

I was hoping that you would call me today to discuss this. Once again, I ask that your client agree to set aside the defaults so that we can proceed with our case management obligations without burdening the court with

unnecessary motion practice.

Tomio

---

**From:** Tomio Narita  
**Sent:** Thursday, January 31, 2008 12:58 PM  
**To:** Ronald Wilcox  
**Cc:** Tomio Narita  
**Subject:** RE: Harrison v. Barnes (Defaults)

Ron:

I am available any time tomorrow between 2 pm and 4 p.m. As I stated in my letter and my earlier email, I'd like your agreement to set aside the default so that we don't need to spend unnecessary time and effort in that regard. Here is my letter and stipulation, again, making that request for the third time.

Thank you.

Tomio

---

**From:** Ronald Wilcox [<mailto:ronaldwilcox@mac.com>]  
**Sent:** Thursday, January 31, 2008 12:52 PM  
**To:** Tomio Narita  
**Subject:** Harrison v. Barnes (Defaults)

Dear Tomio,

I expected you to call me to discuss this case.

If you tell me what time you are available tomorrow, 2-4 p.m., then I will call you.

Thanks,

Ronald Wilcox  
Attorney at Law  
2160 The Alameda, First Floor  
San Jose, CA 95126  
Tel: (408) 296-0400  
Fax: (408) 296-0486  
[ronaldwilcox@mac.com](mailto:ronaldwilcox@mac.com)

<TBN Letter to Wilcox re Proposed Stip to Set Aside Default 1.29.8.pdf>